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Attorneys for Plaintiff  
 C.F.C., a minor, by and through  
 Christine F., his parent and guardian

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION**

C.F.C., minor, by and through CHRISTINE F., his  
 parent and guardian, on behalf of himself and all  
 others similarly situated,

Plaintiff,

vs.

POWER BALANCE LLC, a Delaware Limited  
 Liability Company,

Defendant.

Case No. 11-cv-0487-EMC

**CLASS ACTION**

**SECOND JOINT STIPULATION TO  
 EXTEND TIME ; ORDER**

Complaint Filed: February, 1 2011  
 Trial Date: None set

**SECOND JOINT STIPULATION TO EXTEND DEADLINE TO ANSWER OR RESPOND**

C.F.C., minor, by and through Christine F., his parent and guardian, (“Plaintiff”) and Power Balance LLC (“Defendant”) stipulate as follows:

**WHEREAS**, there are presently approximately twenty-one (21) separate actions pending in federal district courts in California, and elsewhere, raising similar claims regarding the marketing and sale of Power Balance products (“Power Balance Actions”).

**WHEREAS**, on February 24, 2011 (Doc. No. 6), the parties previously agreed to stipulate to extend Defendant’s deadline to respond to the Complaint by motion or otherwise until fourteen (14) days after the Judicial Panel on Multidistrict Litigation’s (“JPML”) ruling on the motions to transfer and consolidate filed before the JPML.

**WHEREAS**, on March 25, 2011, plaintiff Andre Batungbacal filed a Motion for Preliminary Approval of the nationwide class settlement reached between the plaintiff and Power Balance in the putative class action *Batungbacal v. Power Balance LLC*, No. SACV11-00018 (C.D. Cal. 2011) (“*Batungbacal* Action”). The *Batungbacal* Action is the first-filed of the Power Balance Actions and is pending before Judge Cormac J. Carney in the Central District of California.

**WHEREAS**, the hearing on the Motion for Preliminary Approval is set currently for hearing on April 25, 2011 before Judge Carney.

**WHEREAS**, on April 8, 2011, the JPML issued a ruling denying the pending motions to transfer in part because of the pending settlement in the *Batungbacal* Action. In so doing, the JPML wrote that “[i]f Judge Carney preliminarily approves the settlement, these cases are likely on the path to resolution” and “[c]entralization at this time could delay the *Batungbacal* proceedings as well as entail additional expenses for the litigants and the courts to establish an MDL proceeding with little benefit.” A copy of the JPML’s April 8 ruling is attached to this stipulation.

**WHEREAS**, the allegations and claims made in the *Batungbacal* Action are similar to certain allegations in this action and it is Defendant's position that, if final approval of the settlement in the *Batungbacal* Action is granted, it will release and have preclusive effect over the putative class' allegations and claims in this action.

**WHEREAS**, pursuant to the parties' stipulation, Plaintiff has been granted leave to intervene in the *Batungbacal* Action in order to be heard regarding the proposed settlement.

**WHEREAS**, Defendant has not yet filed a responsive pleading, but in consideration of the foregoing and in the interest of judicial economy and the convenience of the parties, Plaintiff and Defendant have agreed to extend Defendant's deadline to file a response to the Complaint in this action, by answer or motion, until fifteen (15) court days after the Court's ruling on the motion for preliminary approval in the *Batungbacal* Action.

Accordingly, it is hereby stipulated and agreed that Defendant shall have until fifteen (15) court days after the Court's ruling on the motion for preliminary approval in the *Batungbacal* Action to file an answer or respond to the Complaint in this action by motion or otherwise. This stipulation is made without prejudice to seek further additional time or other relief if necessary.

Dated: April 18, 2011

EAGAN AVENATTI, LLP

IT IS SO ORDERED:

By: /s/ Michael J. Avenatti  
Michael J. Avenatti  
Attorneys for Defendants

Edward M. Chen  
U.S. Magistrate

LEXINGTON LAW GROUP

/s/ Mark Todzo  
Mark Todzo  
Attorneys for Plaintiff

